



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,830	11/09/2000	Robert j. Duncan	0270157	3595

34845 7590 04/07/2006

STEUBING MCGUINNESS & MANARAS LLP
125 NAGOG PARK
ACTON, MA 01720

EXAMINER

VU, THONG H

ART UNIT PAPER NUMBER

2142

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/709,830

Applicant(s)

DUNCAN ET AL.

Examiner

Thong H. Vu

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

1. Amended claims 1-44 are pending.

Response to Arguments

1. Applicant's arguments with respect to claims 1-44 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-44 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fletcher et al [Fletcher 6,009,274] in view of Hoyle [6,771,290 B1].

2. As per claim 1, Fletcher discloses a method for performing a service on a network device, comprising the steps of:

installing the service on the network device from another location, the service having a corresponding set of service relationships; wherein the loading includes downloading a file corresponding to the service and containing program code operable to perform the service [Fletcher, updating software components in one or more agents a network, abstract]

checking the service relationships of the loaded service against a stored registry of relationships, wherein the service registry includes indications of services and indications of dependencies of services on other services and wherein the checking the

Art Unit: 2142

service relationships of the loaded service includes determining whether all other services the loaded service depends on are available [Fletcher, registry on the fly to point to the new update path when all updated have been received from the network, col 12 line 58-col 13 line 35]; and

However Fletcher does not explicitly detail causing the service to be executed on the network device only if all other services the loaded service depends on are determined to be available.

In the same endeavor, Hoyle discloses a method and apparatus for providing an automatically upgradeable software including advertising wherein a total set of banner available for installation [Hoyle, col 29 lines 25-65].

Therefore it would have been obvious to an ordinary skill in the art at the time the invention was made to incorporate the software/service was executed or installed only if all set were available as taught by Hoyle into the Fletcher's apparatus in order to utilize the automatically download process. Doing so would improve the automatically update software process via Internet.

3. Claims 18,35,43,44 contain the similar limitations set forth of claim 1. Therefore, claims 18,35,43,44 are rejected for the similar rationale set forth in claim 1.

4. As per claim 2, Fletcher-Hoyle disclose the step of updating the stored registry of relationships with information corresponding to the executed service.

5. As per claim 3, Fletcher-Hoyle disclose causing the service to be executed includes the step of providing instructions corresponding to the service to a virtual machine that is ported to the network device [Fletcher, a set of instructions, col 2 lines 38-50].

6. As per claim 4, Fletcher-Hoyle disclose of causing another service to be executed on the network device in accordance with a result of the step of checking the service relationships [Hoyle, relationship, col 33 lines 55-65].

7. As per claim 5, Fletcher-Hoyle disclose the network device is one of a router, a switch, and a hub [Fletcher, Fig 1].

8. As per claim 6, Fletcher-Hoyle disclose the network device comprises a packet switching fabric [Fletcher, packet and switch, col 1 line 42-col 2 line 15].

9. As per claim 7, Fletcher-Hoyle disclose the network device comprises a control plane and a forwarding plane including the packet switching fabric, the loading, checking and causing steps being performed in the control plane without interruption of the forwarding plane [Fletcher, remote network monitor, col 1 lines 35-40].

10. As per claim 8, Fletcher-Hoyle disclose the step of communicating with a remote client to receive an identifier corresponding to the service to be performed.

11. As per claim 9, Fletcher-Hoyle disclose another location corresponds to an application server that stores a plurality of services [Fletcher, Fig 1].

12. As per claims 10,11 Fletcher-Hoyle disclose another location corresponds to an application server that stores a plurality of services, and wherein the identifier comprises a URL pointing to the application server [Hoyle, col 12 lines 1-23].

13. As per claim 12, Fletcher-Hoyle disclose communicating with the application server using the HTTP protocol [Hoyle, col 12 lines 1-23].

14. As per claim 13, Fletcher-Hoyle disclose providing a telnet interface that allows the remote client to provide the identifier in association with a predefined command requesting the service to be performed [Fletcher, FTP, col 10 line 3].

15. As per claim 14, Fletcher-Hoyle disclose interfacing with embedded hardware and software to perform tasks associated with the service [Fletcher, hardware/software col 2 lines 51-61].

16. As per claims 15,16 Fletcher-Hoyle disclose the service comprises accessing a MIB on the network device [Fletcher, SNMP/MIB col 4 lines 1-5].

Art Unit: 2142

17. As per claim 17, Fletcher-Hoyle disclose the step of interfacing with embedded hardware and software to cause forwarding rules referred to by the packet switching fabric to be adjusted [Fletcher, automatically update, abstract].

18. Claims 19-34,36-42 contain the similar limitations set forth of claims 2-14.

Therefore, claims 19-34,36-42 are rejected for the similar rationale set forth in claims 2-

14.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner *Thong Vu*, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 6:00AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Andrew Caldwell*, can be reached at (571) 272-3868. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PMR or Public PMR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thong Vu
Primary Examiner
Art Unit 2142

